

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

CHARLES GRAY PAYNE,)
)
 Petitioner,)
)
 v.) **1:09CV719**
)
ALVIN W. KELLER, JR.,)
)
)
 Respondent(s).)

ORDER TO FILE AND REQUIRING ANSWER FROM RESPONDENT

Petitioner, a prisoner of the State of North Carolina, previously submitted a petition under 28 U.S.C. § 2254 for writ of habeas corpus by a person in state custody, but did not submit the filing fee or a request to proceed *in forma pauperis*. This action was stayed to allow him time to do one or the other. Petitioner has now submitted an *in forma pauperis* request. In reliance upon the representations set forth in the request, it appears that Petitioner is unable to pay the \$5.00 filing fee for this action.

IT IS THEREFORE ORDERED that Petitioner's request to proceed *in forma pauperis* is granted. Respondents shall file an answer with this Court, pursuant to Rules 4 and 5, Rules Governing Section 2254 Cases, within 40 days of the issue of this Order.

/s/ Donald P. Dietrich
Donald P. Dietrich, U.S. Magistrate Judge

October 13, 2009